POR THE MADISONIAN.

NATIONAL CURRENCY & STATE BANKS. MARYLAND PLAN.

A division of opinion having arisen among the friends of the administration in reference to the remedy recommended in the Message, for the monetary disorder which pervades the country; and the opposition having manifested a determination to dispute any measure of relief, save only an oligarchical institution on the principles of the late Bank of the United States, it becomes the patriotic statesman to discuss the subject dispassionately, with the view to sustain the practicability of constructing a system which may suffice to remove existing embarrassments, and avoid the recurrence of similar evils.

Impressed with the magnitude of the matter, a humble individual will approach it with deference, and attempt to analyze an alternative proposal submitted by a citizen of Maryland, and printed as Document No. 6, of each branch of the National Legislature. which contemplates the creation and distribution of an adequate and ample circulating medium in connection with the custody, transmission and disbursement of the revenue in obedience to the following lumata.

1. That the system of this Republic embraces not only the constitution and laws of the Union, but the institutions of the component States, and that the people are paramount

2. That the sure keeping of the public treasures imparts a beneficial privilege.

3. That the credit of its circulation is national capital of great value.

4. That the benefits of each and every other prerogative, whether positive or incidental, properly belong to the people, and that they cannot be ceded to a part, without derogating from the rights of the whole.

The submitter also assumes that money is the blood of a nation—the spring of its industry-the generator of its enterprise-and that " its regulation having been exclusively vested in Congress," the exercise of the necessary power, "to the end that its functions may be equally executed for the general good," is imperatively required in the present crisis.

The proposition is certainly founded on principles substantial in their nature, and entirely consistent with the genius of the government, as it proposes to diffuse the benefits of a valuable attribute of sovereignty to the whole people, and not for the benefit of a fa-vored few, or privileged order.

The writer is aware, that apprehensions have been entertained and expressed publicly that, the States could not surmount the opposition of private banking corporations-and that an attempt to carry into effect a general system would, consequently, be defeatedbut is not the occurrence of such an apprehension of itself enough to invite the encounter, in order that it be ascertained whether the sovereignty exists in the creator, or in the creature corporators?

It appears by the plan, that the assent of any five of the States will suffice to commence the system-and it scarcely could be doubtful that a large number, (already provided with adapted institutions,) would promptly accede; and that the action of less favorable regulations, necessarily pre-existing, would conduce to the successive accession of others, until the entire union would embrace the equitable and efficient measure in contemplation. The prevailing principles of policy and interest are sufficient to warrant the conclusion; as the boon presented in the liberal distribu-tion of the "NATIONAL CURRENCY," and the benefit of the collection and disbursement of the public moneys, operating as in-ducements on the one hand, whilst the justifiable withholding of that boon, and those benefits, as well as the enfeebling drains of abstraction by drafts to the public creditors or those continuing under the control of private corporations, in preference to redeeming t means of the conforming States, acting adversely on the other hand, would simultaneously accelerate the establishment of a financial confederation in harmonious accord with our political system, and the just rights of all interests and classes of our wide spread popu-

The proposition in brief, is intended to establish the monetary system, and to regulate the currency of the United States according to the following basis and principles, to

1. Five commissioners, to be appointed by the President and Senate, to act, in conjunction with other commissioners to be appointed by the States, in a board, to sit at the seat of the General Govern-

2. The board to devise and prepare a national

2. The board to devise and prepare a national currency, in convenient denominations, from twenty to one thousand dollars, to be apportioned among the States in the ratio of their electoral votes, not exceeding one hundred thousand dollars for every Senator and Representative in Congress.
3. Each of the States assenting to the system to receive its contingent of the currency upon the payment of one per centum on the amount required, and contracting to pay in like manner annually thereafter, and providing not less than one-fourth of that amount in the legal coin of the United States as a basis of its operations.

a basis of its operations.

4. Each of the assenting States to appoint one commissioner to the board, and one in addition for every ten of its electoral votes; deducting the number which may have been appointed from such State

by the President and Scnate by the Fresident and Senate.

5. The principal institution of each of the States to have the custody, and provide for the transmission and disbursement of the public moneys, and for exchanges between the States, under such conditions

changes between the States, under such conditions and regulations as the Congress may prescribe.

6. The national currency to be made receivable in all payments to the United States, at each and every of the institutions, and at all their branches or departments, without regard to its place of emissions explanation.

sion or redemption.
7. The board to have and exercise a visitorial and supervisory control over the institutions of the States in all their ramifications; each to be visited and inspected, by deputation, once in every six months at the least.

months at the least.

8. The assenting States to be severally and distinctly responsible for their contingents of the currency, and for their respective institutions.

9. The commissioners to receive an adequate compensation for their services, and fair allowances for itinerant charges; to appoint and pay their secretary, and other necessary officers and servants; to take security for their good conduct and the due discharge of their proper duties.

10. The secretary to receive the per centage, to be paid by the States; to make all needful disbursements, under the direction of the board; and to account to Congress for any balance which may re-

account to Congress for any balance which may re-

11. The proceedings of the board to be open to the inspection of Congress, or to any committee thereof; and the right to modify or repeal the act to be reserved, subject to the fulfilment of existing

12. The board to consider all subjects connected with the currency, in relation to the interests of agriculture, manufactures, and commerce, charged upon it, and report thereon to Congress from time to time.

THE MADISONIAN.

WASHINGTON CITY, TUESDAY, OCTOBER 10, 1837. VOL. I.

ILLUSTRATION. Maine -New Hampshire -Massachusetts -Rhode Island -700,000 1,400,000 400,000 800,000 700,000 4,200,000 800,000 3,000,000 Vermont -New York -New Jersey -Pennsylvania South Carolina Ohio -Louisiana Indiana Missouri Michigan

To further elucidate the matter, the writer will submit some brief remarks, in numerical order, with reference to the several points of

the proposition:
1. The commissioners, as contemplated, would constitute a financial congress of infinite value; emanating chiefly from the States, they could not be wielded by any de-partment of the Government to advance the views of any party. From such an influence they would, indeed, be free, by the tenure of their office, the nature of their operations, their guarded powers, and prescribed duties, as provided in the organic laws to be present-

2. It is to be understood that the national currency is not intended for the common purposes of money, but as an auxiliary to the specie basis, and mainly to supply the facilities of commerce, and interchanges in large transactions, in aid of the issues of the public institutions of the several States. And, although the limit for the entire Union is apparently too much contracted, the amount authorized to be issued is greater than the greatest circulation of the late Bank of the United States; and if it should be found insufficient, the demand might be supplied by a further emission of the currency for general

3. The required payment of one per centum by the States is intended only to cover charges; as the currency, being merely a measure of value, could not justly be made a subject of federal revenue. With equal justice might the States be taxed for scales and weights, or quarts and gallons, or other measures of length or capacity. And even that per centage might be reduced, by one-half, after the first year. The requisition of one-fourth in coin is esteemed sufficient; but, being the minimum, if found insufficient, the States would, necessarily, increase it to sustain their respective institutions.

4. The smallest State would be entitled to a representative, and the largest to five, subject to the restrictions of the law. And, although the board might appear too numerous. that objection would disappear when it should be considered that a large portion of its mem-bers would be employed in visiting and inspecting the institutions, whilst others would be engaged in considering the subjects refer-red to them by either branch of Congress, besides their regular or ordinary duties.

5. The custody of the federal treasures could not certainly be more safely placed than under the guarantees of the States in their appropriate institutions. And the benefits to justly disposed of than by such distribution to disbursements could be surely effected, under the direction of the board of currency, by the public institutions of the States, as well as by private corporations or individual officers. The practicability of the operation is proved, in advance, by the ease and safety of our revenue system, in contrast with the frequent embarrassments of such corporations.

6. The national currency would be re ceivable in all the States, as were the notes of the late Bank of the United States.

7. The mode of exercising a visitorial and supervisory control over the institutions of the States, and their respective branches or departments-so eminently calculated to inspire confidence, and insure a compliance with the required conditions, uniformity of proceeding, and the most beneficial actionis fully and distinctly detailed in the bill.

8. Besides their responsibility for the custody, transmission, and disbursement of the public moneys, the States are required to respond, in their sovereign characters, for the currency, and for its redemption, on demand, in gold or silver, under conventional arrange ments and sufficient guaranties.

9. The expenses of the board would be in truth, but a small advance for a great benefit, and might justly be regarded in the light of seed sown for a rich harvest. The commissioners would properly appoint their ne-cessary officers, and take sufficient security for their good conduct.

10. The secretary would receive the con tributions, and, after defraying the expenses, under the direction of the board, would account to Congress for any surplus, which would be considered in the subsequent graduations of the necessary per centage.

11. The board, being entirely a public department, would be open to the inspection of any committee or officer of Congress, and subject to any alteration or modification which experience might suggest.

12. Over and above the regular duties of the board, in the character of a financial Congress, it would be peculiarly qualified to investigate the great interests of agriculture, manufactures and commerce in their various relations, as connected with the main object of its creation; and to report thereon, from time to time, as might be required by either branch of the National Legislature.

From the foregoing, it will be seen that a connection of institutions belonging to the from the people for the use of a public right, states exclusively, or to such as they would be and eventually drawn from the land and labor responsible for, is contemplated; and it is not of the country, has exceeded annually the to be supposed that such responsibility would average avails of the duties on imports for the be assumed without an entire or principal in- last three fiscal years.

terest in the capital, and an actual control in

It appears that the highly beneficial princi ple of assuming the sovereign right of bank-ing, has been adopted and improved in several of the states, and, with the progressive developments of its benefits, the more has it gain-ed upon the public favor; its most potent en-emy is that which has grown out of an excess of grants to private corporations for such pur-poses. But if the regulation of the currency is to be regarded as a public RIGHT; if the good of the whole is to be preferred to the special interests of a favored few; and if there be enough of intelligence among the people to understand the proposition, and to appreciate its merits, (which cannot be doubted.) we may well anticipate the eventual establishment of a national currency, under the agency of a connected system of institutions belonging sole

The doctrine of the great father of demo cracy is peculiarly apposite and interesting at the present crisis, as it presents a practicable succedaneum, through the medium of a mea-sure of value, which, by "its solidity, univer-sality of circulation, and receivability in all public payments, would make its way, and supplant the paper of private banks or corporations of individuals." These are the views of Jefferson; and although the Congress may not be authorized to establish a paper currency as an absolute tender in private contracts, yet the influence they may exercise in securing its soundness, through the collections of the revenue, has been admitted by the purest patriots and most enlightened statesmen of this republic, in various departments

of the Government. In the early annals of the constitution, the power was affirmed by Gen. Hamilton, in his public character, "to designate or appoint the money or thing in which the taxes are to be paid," as being "not only a proper, but a ne-cessary exercise of the power of collecting them;" accordingly, Congress, in the law concerning the collection of the duties on imposts and tonnage, have provided "that they shall be payable in silver or gold. But while it was an indispensable part of the work to say in what they should be paid, the choice of the specific thing was a mere matter of discretion. The payment might have been required in the commodities themselves; taxes in kind are not without precedent, even in the United States; or they might have been in the paper money of the several states, or of the bills of the Banks of North America, N York, or Massachusetts, all or each of them ; or it might have been in bills issued under the AUTHORITY OF THE UNITED STATES. No part of this, it is presumed, can be disputed. The appointment of the money or thing in which the taxes are to be paid, is an incident to the power of collection; and, among the expedients which may be adopted, is that of bills issued under the authority of the United States." These are the views of Hamilton ; and this contemporaneous commentary has received the sanction of succeeding sages, in the practical employment of the Treasury notes as a medium of exchange and circula-

It therefore appears that a paper currency is not inhibited by the constitution; and that such a currency may be created by the General Government, and distributed among the states, under proper guards and regulations to insure its credit and convertibility into gold or silver, and to promote, incalculably, the common welfare, is equally evident; as the productive principles of a high and valuable prerogative would thereby be diffused, by its operations, to the whole people, and not confined to the benefit or profit of a special few. The plan, indeed, is esteemed sufficient for all the beneficial purposes in contemplation, without the evils of a soulless combination of corporators; it is, in effect, a National Bank of ise from the deposites could not be more exchange and deposite, without the privileges of issuing notes or loaning money as regards the whole people. The transmissions and the General Government, in connection with an equitable and secure system for the receipt and distribution of the federal revenue-com mensurate, in fact, with the wealth and credit of the several states, embracing the entire property and population of the whole Union. To each and every of the states it would impart a rich resource in public income, and difuse the means of propelling industry and enterprise, and, by accelerating improvements throughout the country, promote the amelioration of every interest and class of society; and while such a system would essentially enlarge the specie basis, and adopt the local circulation to the common uses and demands of ordinary business, the national currency would supply the facilities of interchanges in large transactions, on terms convenient and

In reference to the pending question, the great object of desire is a medium of uniform and equal value throughout the Union; to accomplish which, it is proposed that a currency shall be created by the United States upon the faith and credit of the whole nation, guarautied by the states, receivable everywhere in all public payments, and convertible into silver or gold on presentation at each and every of the institutions of the states. If a better medium can be devised, it remains to be demonstrated.

For the more ample illustration and better inderstanding of the matter, some additional views in relation to the expediency and justice of the proposition, and in support of the practical effects anticipated to flow from the operations of the interesting measures in conemplation, will be submitted.

By the federal compact, the entire revenue from duties on imports is ceded to the General Government exclusively; and the states are consequently reduced to the necessity of resorting to direct taxation, or to incidental sources; for defraying the expenses of their administrations. The receipt of income to the national Treasury from the mere circulating medium, does not appear to have entered into the consideration of the framers of that compact; and the benefits derivable from the resource in question, may be justly regarded as a reservation of the whole people, to be enjoyed in their respective states.

From documentary information, and estimates entitled to credit, it may be fairly inferred that the amount of contributions extorted

In a critical examination of this topic, it would seem that, if such a course of contribution is to be tolerated, the resulting revenue ought to enure to the common benefit, and not to enrich a privileged order of corporators; and the more especially, as the resources of the states, with the aid of the national currency and the capital imparted by the public deposites, would abundantly sustain the proposed system, under judicious regulations pro-

It is not to be presumed, nor even suppos ed, that the plan presented could be carried immediately into full effect throughout the Union, as the existence of charters conferring vested rights, might operate to impede, or virtually preclude, its useful action in some of the states for years to come. But many mem-bers of the confederation are unincumbered by such grants, and all, in time, might be re-

lieved, by their expiration, or otherwise. The full enjoyment of this prerogative being susceptible of producing avails of vast extent, would not only enable the several states to perfect their lines of intercommunication already in progress or in prospect, as well as to promote improvements in litera-ture, and other desirable ameliorations, but tend incalculably to increase productions in every interest, and, by augmenting exportable commodities, to supply and nourish exterior commerce, and essentially enhance the means

of comfort among the people.

With reference to the private corporations in which the public moneys have been depo-sited, they are not calculated, by the nature of their organization, nor the course of their administration, to inspire confidence as depositories of the national treasures. Neither are they to be viewed as the most eligible vehicles of distribution, nor as the most competent regulators of monetary interchanges in remote regions, having, as they have, different interests and variant points of policy. Among the many objections to which those corporations are obnoxious in the public estimation, some are similar to such as existed in the late Bank of the United States. And, although less eminently calculated to attract rival investments, and to generate foreign influences, or to combine a concentration of power in the possession of a few, or a single if it be allowed at all to visit and replenish individual, dangerous to the peace and pros- the vaults of the banks, it will only be allowed perity of the country, or to the vital principles to do so, in this the hour of their greatest of the Government, yet, composing, as they do, a distinct community, with inordinate power to act in private, and having privileges superior to the common mass of our population-constituting, in fact, an order which consumes the fruits of the common labor, without contributing to its production in due degree—they may well be viewed as hostile to the spirit of a free republic; and the paper of such, (emitted by irresponsible corporations, acting in conclave, with a sole regard to private benefits,) from apprehensions of its solidity arising from the frequency of their fail-ures, or depreciation, could not maintain that uniform and equal value which would sustain the issues of a board based upon the wealth and credit of the whole nation, guarantied by the states, receivable in all public payments, and immediately convertible into gold or sil-ver. Philo-Fiscus.

> FOR THE MADISONIAN. TREASURY NOTES. No. VII.

The noble principle on which you have acted in admitting my fifth letter to your columns, cannot fail with a free people to redound to your advantage. A free press is the strongest fortress of a free government. Let the motto between us be. " AMICITIA ET VE-

RITAS"-Friendship and truth.

1. If the Treasury notes are to be used as so much money "in paying the debts of the United States," and to pass from debtor to creditor in the extinguishment of debts, it is evident they must be possessed of the essential attributes, and are designed to answer the purposes of bank paper, forming a circulating medium. To create them, with this view and in this sense, is clearly to violate the constitution, unless the granted power "to coin money," means or was intended to confer a power to make paper money. That it was not so intended is evident in the facts that the framers of the constitution used the words by which they expressed their ideas, in the ordinary sense; and that the sense in which the word "coin" is ordinarily used, is "to stamp a metal and convert it into money; to Then, to make paper promises to pay, intended to pass in payment of debts, is a substantive act, separate and distinct from the granted power to coin money. The power "to coin money," is the only delegated power on the subject of making money; and all "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." It follows that the making of paper to pass in paying debts, as money, is to do that which the power is not expressly granted to do. For the Congress to do that which the power is not expressly granted to it to do, can only be justified on the ground that the exercised power in this case, of making such paper promises to pay, is a power necessary for carrying into execution some expressly granted power. Before it can be successfully maintained that an issue of Treasury notes made to pass in payment of debts, is necessary to carry into effect any one of the expressly granted powers, the powers which are granted and uncontested, to lay and collect taxes, to borrow money on the credit of the United States," and "to coin money," must first be tried; for, surely, no power can be fairly claimed to be properincidental, until the particularly enumeraed powers have been put in requisition of a action, and have been found to be insufficient. Neither the power of laying and collecting taxes, nor that of borrowing money, has been tried in this emergency; and yet the power of making paper promises to pay, intended to pass in payment of debts, is claimed to be fairly incidental, and "necessary" to the successful conducting of the finances!!

(The still contested exercises of this power to make paper money, and the untoward mul-tiplication of the appellatives of paper money,

have already done mischief enough. I would resist its exercise in this, at best, questionable shape, more strenuously than that of any other doubtful power. Let the country take warning from the words of the great head of the ancient family of Federalists—from words recently cited by Mr. Benton, undismayed by them, in a speech in favor of the issue of Treasury notes!!! From these words of Gen. Hamilton, to wit: "The stamping of paper, (by Government,) is an operation so easier than the laying of taxes, or of borrowing money, that a Government in the habit of paper emissions, would rarely fail, in any emergency, to indulge itself too far in the employment of that resource, to avoid as much as possible, one less auspicious to present popularity." From these words of wisdom,

NO. 21.

let the country take warning.)

2. But it is contended that the proposed issue of Treasury notes is nothing more than a borrowing of money; or, in the language of the advocates of the measure, "the notes are to be loaned for money, to wit : for gold and silver." In this aspect of the issue of Treasury notes, it being taken to be true, that they are not to form a circulating medium by passing in payment of debts; I would ask, why does not the general Government boldly and openly take the attitude of a borrower, directing the Secretary of the Treasury to negotiate a loan, and having effected it, to execute writings obligatory for the return of it to those who having the ability and willingness, shall lend it? This would be borrowing, well un-

Further: Taking it to be true that these notes are to be loaned for gold and silver, and not to be used "as currency," in the payment of debts, what will be the effect of he emission of them, on the anticipated resumption of specie payments by the suspended State Banks? It is clear to my mind, that to raise gold and silver on these notes, at best, "a disguised mode of borrowing," will be to abstract so much from the ordinary channels of trade, from which the banks have the best chance of drawing it to augment their specie fund with, preparatory to a safe resumption of specie payments; and to appropriate it to the uses of the Government, from which, need, in the tantalizing shape of a special de-

If I am wrong in this, I ask for light. would do nothing to retard a stable resumption of specie payments. So far from it, as far as the unbroken reins of the constitution would let me go, I would go to any length to aid in hastening its advent.

DEFENCE OF GENERAL JOHN E. WOOL, Against the accusations of his Excellency C. C. Clay, Governor of Alabama, as enquired into by the Court of Enquiry, of which Major General Scott was Pre-sident.

MR. PRESIDENT: It was very far from my expectation when I took leave of my command on the 1st of July last, in obedience to instructions from the War Department, that I should so soom again be compelled to revisit this country, particularly under the circumstances in which I now appear before you. I frankly confess that when I took my departure I was flattered with the pleasing reflection that I carried with me the approbation and kind wishes of all, the Tennesseeans, the Georgians, the North Carolinians, and the Alamians. It appears, however, that I was mistaken. the Georgians, the North Carolinians, and the Alabamians. It appears, however, that I was mistaken, and the pleasing tillusion which I had so fondly cherished, was soon and rudely to be dispelled. For, on my arrival at Washington, I learned from the Secretary of War that I had been charged by the Executive of Alabama with usurping the powers of the civil tribunals of the state, disturbing the peace of the community, and trampling upon the rights of its citizens; and that a Court had been instituted to engire into the circumstances, and report the facts to I have assailed the Treasury notes in two aspects, to wit: As being intended to pass in payment of debts, and thus form a circulating medium; and as being intended to raise money on, by being loaned for gold and silver. I would offer an idea or two more on each resisting the control of the control of the control of two more on each resisting the control of the con the white inhabitants, will clearly prove. I did not go to that country, Mr. President, to tarnish what little reputation I may have previously acquired, by acts of oppression or cruelty, nor by violating the laws of my country. My object was a faithful execution of the treaty with the Cherokees, to protect all in their rights, as guarantied by it; the white men and the red—the weak as well as the strong. These were the cardinal rules for my conduct which I steadily kept in view, and which I never lost sight of for a single moment, from the time I entered the country until I left it.

But it is not my intention, Mr. President, to detain

But it is not my intention, Mr. President, to detain this Court, or weary its patience, by attestations of my innocence, or a labored defence of my conduct, whilst commanding in the Cherokee nation. The President of the United States having refused my President of the United States having retused my request for a general enquiry into my conduct, and the present enquiry being limited to a single complaint, I will at once proceed, in as brief a manner as circumstances will permit, to present my views of the subject to the consideration of the Court. The facts by which this Court is to be guided in the formation of its opinion, are now upon its records. I await the result of its deliberations, and the judgment of the American people, when your proceedment of the American people, when your proings shall be made public, with undoubting

My instructions, Mr. President, of the 20th June, My instructions, Mr. President, of the 20th June, 1836, in which a copy of the late treaty with the Cherokees was enclosed, are before you marked (1.) With what energy, zeal, and promptitude I discharged the important duties thus assigned me, the Court will be able to judge from the facts and the documents before it. As directed, I repaired to Athens, in Tennessee, with as much despatch as practicable, and after organizing a brigade of volunpracticable, and after organizing a brigade of volunieers, arming and equipping such a force as I considered the nature of the service required, and establishing depots of provisions in suitable places for both the troops and the poorer class of Cherokees, distributing the troops in such positions as would afford the greatest facilities for operating and controlling the Cherokees in case of hostilities, I established my head quarters on the 27th of July, a little more than a month after I left Washington, near the mouth of Valley river, N. C., in the midst of the most obstinate and warlike of the Cherokees, and the most devotedly attached to their country. I was not slow in discovering that the command I had assumed was one of delicacy in its nature, and extremely troublesome in the execution. I found the Indians laboring under a state of excitement, produced by the means under a state of excitement, produced by the means adopted to force upon them the late treaty, which they most explicitly disavowed, "declaring that they had made no such treaty with the United States, and that the paper which purported to be one was made by a few unauthorized individuals, without the sanc-tion of the nation, assisted by corrupt agents of the Government." This state of feeling was heightened by the daily encroachments of the whites, who were flocking into the nation and driving them from their homes. This excitement was still greater in Georgia and Alabama, where the Indians were not only gia and Alabama, where the Indians were not only dispossessed of their houses and fields, but, in consequence, also, of the conduct of the troops of these states, who, in pursuit of Creek Indians who had fled for refuge among the Cherokees from the war that was raging in their own country, not unfrequently captured the Cherokees and conveyed them to the Creek emigrating camp for transportation to the West. By this means husbands were frequently separated from their wives, and children from their parents. Such was the perplexed and embarrassing state of things with which I had to struggle on my catrance into the Cherokee country.

To allay this excitement, to correct these abuses, and to induce the Cherokees to acquiesce and submit

to the conditions imposed by the treaty, the best energies of which I was master, were put in requisition. The testimony before the Court will show that I devoted myself unceasingly to accomplish the objects of my mission to the Cherokee country, to execute the treaty bonorably to the Government and justly to the Indians. I have the satisfaction of believing that the measures adopted would have produced the desired effect. The Cherokees were beginning to relax in their opposition, and were making preparations for removal to the West.

I have thus endeavored, Mr. President, briefly to lay before you the state of the Cherokee nation in August and September, 1836. If, at that time, I had been sustained in my course by the Government of the United States, and the Commissioners had been present to enter upon the discharge of their duties at the same time, I have no doubt, and I think I will be sustained in the declaration by the more intelligent part of the nation, that, at least, five thousand of the Cherokees would have removed to their new homes during the last fall and winter. This would have induced the removal of the residue of the nation without trouble or difficulty.

As an indication of the course pursued by me during my command in the Cherokee country, and as showing the means by which I acquired the confidence of the Indians and the approbation of the white citizens of the nation and the neighboring country, I would call the nationion of the Court to my communications to Brigadier General Dunlap of the 4th and 12th of August, 1836. In that of the 4th of August, the following directions will be found: "You will proceed without delay, to New Echota, and such other parts of the Cherokee nation, within the limits of Georgia, as may be necessary to give protection both to the Cherokees and the white inhabitants residing in that section of the country. You will allow no encoachment on either side. Both protection both to the Cherokees and the white inhabitants residing in that section of the country. You will allow no encroachment on either side. Both will be protected in their persons and property. You will prevent as far as practicable all collisions between your troops and the Indians. You will also prevent any interference on the part of the Georgia troops with the Cherokees.

At all events, you will prevent any improper exercise of military control over the Indians, or the white inhabitants. The whole subject is left to your sound discretion, taking care to do nothing that will bring you in conflict with the authorities of Georgia. The sovereignty of the State and its laws must be

The sovereignty of the State and its laws must be respected. You will recollect, in your proceedings, that the State and the citizens are still laboring under

respected. You will recollect, in your proceedings, that the State and the citizens are still laboring under a state of excitement, caused by the cruelties of a savage warfare. Therefore great prudence and discretion should be exercised in all your intercourse with the nation, and particularly in all measures which might have a bearing upon the rights and interests of the State and people of Georgia."

Again, on the 12th of August, the Court will find I transmitted to General Dunlap the following instructions. "Caprain Vernon, stationed at New Echota, informs me that John Ridge has complained to him that some white man is about to take forcible possession of his ferry on Coosa river. You will, without delay, inquire into the case, and if you should find the complaint to be just, you will, until further orders, protect Ridge in his rights and property. This order will apply to all cases of a similar character in the Cherokee country.

In your proceedings you will be governed by your instructions of the 4th instant." Ridge's ferry was in Alabama.

By examination of the testimony of Captain Mor-

In your proceedings you will be governed by your instructions of the 4th instant." Ridge's ferry was in Alabama.

By examination of the testimony of Captain Morrow, Colonet Byrd, Captain Shaw, and Major Lyon, the Court will discover that I gave similar instructions to every officer ordered on command, and particularly to Captain Morrow, stationed near Gunier's Landing, Alabama, and yet I have been charged by his Excellency, C. C. Clay, now Senator Clay, (in violation of the laws of Alabama.) of assuming the power of adjudicating and determining the right of possession or ownership of land and improvements thereon, and of dispossessing one claim, and supplanting him with another by military force. Under one of these decisions, a conflict took place in the county of Marshall, as the Governor states, "which resulted in the death of two individuals, certainly, besides the most serious injury to others, some of whom it is feared, may yet die of their wounds."

The letter of his Excellency is so far correct in this, that I did, on the occasion alluded to, and at other times, dispossess white men of Indian improvements, which they had unjustly taken and "supplanted them," not with another white man, as it might be inferred, but with an Indian claiming the benefits and protection of the late Cherokee treaty; and for this I believe that I was fully warranted by the letter and spirit of the treaty, and that justice demanded the exercise of such a power. On this point I shall have occasion to speak more fully hereafter.

The facts of this case are simply these. The heirs of John Gunter, Senr., deceased, through their administrator of the estate, Mr. Riddle, applied to me to restore them to the possession of a certain improvement which they claimed, as Cherokees, under

ministrator of the estate, Mr. Riddle, applied to me to restore them to the possession of a certain improvement which they claimed, as Cherokees, under the treaty of 1835, then in the possession of Nathaniel Steele. Having satisfied myself by a thorough investigation, that it was an Indian improvement, and that it rightfully belonged to the heirs of John Gunter, Senr., deceased, and that Steele had no claim whatever to it, I considered it my imperative duty, having the treaty before me, which I could view in no other light than part of my instructions, to transmit the instructions before the Court, of the 3d of June, marked G, to Captain Morrow. You have it in testimony before the Court, that these instructions were obeyed, and the administrator put in possession. I would, however, call the attention of the Court to the concluding paragraph of these instructions, as clearly indicating my desire in nowise to interfere clearly indicating my desire in nowise to interfere with that which properly belonged to the civil tribunals of the country.

It will be remembered by the Court, that Mr. Rid-

It will be remembered by the Court, that Mr. Riddle was an officer acting under the laws which I am charged with having outraged and trampled upon. That he states in his testimony, most explicitly, that he applied to me for relief, because he believed he had no adequate remedy under the laws of Alabama. I also refer to the very clear testimony of Captain Morrow on this point. I wish it also to be understood, that the Government of the United States was distinctly informed and approved of the course. understood, that the Government of the United States was distinctly informed, and approved of the course, for which I have received the denunciations of the Governor of Alabama. For this purpose I would refer the Court to my letter of the 18th August, 1836, to the honorable Lewis Cass, marked 5, enclosing instructions to General Dunlap, of the 4th and 12th of August, and the answer to that letter, dated the 1st of September, marked 6 also to my letter of the 27th of August, marked 7; and the answer of the Acting Secretary of War, of the 13th of September, marked 8; to the letter of the President of the United States, of the 7th of September, marked 10, the following extract of which is very explicit: "Should you find any evil disposed white man in the nation, lowing extract of which is very explicit: "Should you find any evil disposed white man in the nation, exciting the Indians not to comply with the treaty, you will forthwith order him or them out of the nation, and if they refuse to go, the facts being thoroughly established, you will take the steps necessary to put them out. Such characters must be considered in the light of intruders, prohibited by the treaty from living within the limits of the nation." Again, in my instructions of the 12h of October, marked 13, it will be perceived I was authorized not only to in my instructions of the 12th of October, marked 13, it will be perceived I was authorized not only to have dispossessed Steele, but to have turned him out of the country. For it is there laid down, "that if any of our citizens enter the Indian country, and incite opposition to the execution of the treaty, you will ascertain whether there is any law of the State which can be brought to bear upon them, and under which they can be removed. If they cannot be reached in this way, it is the opinion of the President, that they may be removed under the 6th article of the treaty, in which the United States guarantee that the Cherokees shall be protected against interruption and intrusion from citizens of the United States, who may attempt to settle in the country without their consent." ut their consent."
Thus it will be seen, Mr. President, that my course
Thus it will be seen, Mr. President, that my course out their consent."

was not only approved when I informed the War Department of my intention to protect the Chero-kees in their property from the lawlessness of intru-ders: but the President of the United States, who is

kees in their property from the lawlessness of intruders: but the President of the United States, who is my superior officer, and whom I am bound to obey, directs me in the most positive manner to turn any white man out of the nation who should incite opposition to the treaty. And the important principle is there recognized that the United States having guaranteed that the Cherokees shall be protected from all interruption and intrusion of the white men, has the authority to turn them out of the nation, unless they are there by the assent of the Cherokees themselves. Surely if I had the power to turn them out of the nation as intruders, I had also that less obnoxious but more useful power to dispossess them of an Indian house where they had violently and unjustly obruded themselves.

Mr. President, before I close this brief defence, upon an intimation to that effect from one for whose opinion I have the greatest respect, I will, as concisely as I can, bring to view the reflections which brought to my mind the conviction that the laws of Alabama, extending her jurisdiction over the Indians and their country, are contrary to treaties and the statutes of the Union, and therefore void. I approach the discussion of such a question as this with much embarrassment. It is properly and purely a judicial question, and I make no pretensions to legal attainments. Besides, I am well aware of the anarry discussions which it has elicited, and of the jealous sensitiveness of the States upon this point, which, at one time, threatened to overthrow the Union. Neither can I suppose for a moment that I shall be able to convince the Court upon a question